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IN THE SUPREME COURT OF THE STATE OF IDAHO
2007 Opinion No. 52

JAMES H. HAIRSTON,)	
)	
Petitioner-Appellant,)	
)	
v.)	
)	
STATE OF IDAHO,)	
)	
Respondent.)	
-----)	
STATE OF IDAHO,)	Docket No. 28528/29653/29680
)	
Plaintiff-Respondent,)	
)	
v.)	
)	
JAMES H. HAIRSTON,)	
)	
Defendant-Appellant.)	

Appeal from the District Court of the Sixth Judicial District of the State of Idaho, Bannock County. Hon. Peter D. McDermott, District Judge.

The Motion to Dismiss Petitioner's consecutive petitions for post-conviction relief is: granted.

Federal Defenders of Eastern Washington and Idaho, Moscow; and Leo N. Griffard Jr., Boise, for appellant. Bruce Livingston argued.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent. L. LaMont Anderson, Deputy Attorney General, argued.

James Hairston appealed from the dismissal of his consolidated successive petitions for post-conviction relief, petition for writ of habeas corpus, and motion to correct illegal sentence, to vacate sentence of death and for new sentencing trial. The State then moved to dismiss the

appeal on procedural grounds. The State argued that the Court did not have jurisdiction to hear the appeals under I.C. § 19-2719, which governs post-conviction relief proceedings in capital cases. Hairston challenged the constitutionality of I.C. § 19-2719 and argued that the district judge erred in refusing to disqualify himself from considering Hairston's second and third petitions for relief.

The Court found that Hairston failed to timely raise claims of ineffective assistance of counsel and denial of resources and that Hairston therefore had no basis for proceeding with his appeal. After concluding that Hairston has failed to meet the jurisdictional requirements of I.C. § 19-2719, the Court further reasoned that Hairston was not entitled to a hearing on his petitions in the court in which he brought them and that any alleged prejudice in those proceedings was irrelevant. The Court found that the trial court's orders were not appealable because Hairston's claims fell outside the narrow exceptions provided in I.C. § 19-2719(5). Accordingly, the Court granted the State's motion to dismiss.